

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DARRYL MCGORE,

Petitioner,

v.

Case No. 24-cv-11509  
Honorable Linda V. Parker

JAMES CORRIGAN,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE PETITIONER’S MOTION TO AMEND  
AND INSTRUCTING PETITIONER TO FILE NO FURTHER MATERIALS IN THIS  
MATTER UNLESS PERMISSION TO FILE A SECOND OR SUCCESSIVE PETITION  
IS GRANTED**

Michigan prisoner Darryl McGore (“Petitioner”) filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254 challenging his state court convictions for one count of first-degree criminal sexual conduct and two counts of armed robbery which were imposed following a jury trial in the Recorder’s Court for the City of Detroit (now Wayne County Circuit Court). As this was Petitioner’s second federal habeas petition challenging the same convictions, this Court issued an order on June 24, 2024, transferring the petition to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244(b)(3)(A). Petitioner has since filed a motion to appoint counsel (ECF No. 5), which the Court denied for lack of jurisdiction (ECF No. 6), and a motion to amend (ECF No. 7.)

The Court denies Petitioner’s motion to amend without prejudice because it lacks jurisdiction over his successive petition in the absence of authorization from the Sixth Circuit pursuant to § 2244(b)(3)(A). *See e.g. United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000) (district court lacked jurisdiction over petitioner’s motion for the appointment of counsel to assist

in his filing of a successive habeas corpus petition, and, instead, the motion for the appointment of counsel should have been brought in Court of Appeals as part of a petition for authorization to file a successive habeas petition); *see also Salem v. Warren*, No. 09-12157, 2009 WL 3125554, at \*2 (E.D. Mich. Sept. 28, 2009) (citing *Key*, 205 F.3d at 774) (explaining that “[a] district court lack[s] jurisdiction over [a] motion for the appointment of counsel to assist in [the] filing of a successive habeas corpus petition [at the Sixth Circuit]”); *Wagner v. Smith*, No. 06-10514, 2007 WL 3124659, at \*2 (E.D. Mich. Oct. 25, 2007) (explaining that “[b]ecause jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals . . . [a] motion for the appointment of appellate counsel [is] more appropriately addressed to the Sixth Circuit.”).

Accordingly,

**IT IS ORDERED** that Petitioner’s Motion to Amend (ECF No. 7) is **DENIED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that Petitioner shall not file further materials in this matter unless the Sixth Circuit Court of Appeals gives him permission to file a second or successive habeas petition.

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: September 18, 2024